IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Criminal Revision No. 215 of 2002
Date of Decision: May 11, 2009

Karnail Singh .....Petitioner

Versus

State of Punjab .....Respondent

Coram: Hon'ble Mrs. Justice Sabina

Present: Mr.S.S.Sodhi,Advocate, for the petitioner.
Mr.Amandeep Singh Rai, Assistant Advocate General, Punjab

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Sabina, J.

Petitioner was convicted under Sections 304-A of the Indian Penal Code (`IPC' for short) vide judgment dated 17.11.1997 by the Judicial Magistrate Ist Class, Nabha. Vide order of even date, petitioner was sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.500/- Aggrieved by the same, petitioner preferred an appeal and the same was dismissed by the Additional Sessions Judge, Patiala vide judgment dated 14.12.2001. Hence, the present revision petition.

The brief facts of the case, as noticed by the Appellate Court in para 2 of its judgment, are as under:-

"Brief facts of the case are that on 3.8.95 Jaswant Singh

complainant alongwith his brother-in-law Basant Singh (Sister's Husband) was going on scooter PB-11B-6978 from his village Chanarthal Khurd to village Tohra in connection with some personal work. Balwinder Singh son of the complainant was also going on a separate scooter PB-11B-3427 from his village to Government Senior Secondary School, Tohra. Scooter being driven by Balwinder Singh was going ahead of the Scooter of the complainant. At about 7.30 AM when the scooter being driven by Balwinder Singh reached near the turning to village Tohra, Truck PB-11C-9959 came from the opposite direction being rashly and negligently. The driver did not blow any horn and it struck against the scooter being driven by Balwinder Singh while it was in the process of turning to the side of Chanarthal Khurd. Accused who was driving the truck tried to slip away, but was apprehended by the complainant and his companion. He disclosed his name as Karnail Singh son of Balbir Singh, Caste Jat, resident of Gunia Majra, police station Mulepur. Complainant and Basant Singh then tried to take care of the injured and the accused ran away from the spot. Balwinder Singh was being taken to Rajindra Hospital, Patiala, but he died on the away. ASI Jasdev Singh along with other police officials was present on patrol near Bus Stand of village Tarkheri where Jaswant Singh went to him and got his statement Ex.PW8/A recorded. ASI made his endorsement Ex.PW8/B upon it and formal FIR Ex.PW4/A was registered. Then investigation officer went to the spot and prepared rough site plan Ex.PW8/C. Truck

and scooter were taken into possession vide memo Ex.pw8/C. Truck and scooter were taken into possession vide memo Ex.PW8/D. Scene of the occurrence was got photographed. Photographs Ex.P1 to Ex.P9 were taken into possession vide memo Ex.PW7/A, Inquest Ex.PW8/E was prepared and the dead body was sent for post mortem. Statements of the witnesses were recorded. Vehicles were got mechanically tested. Accused was arrested on 5.8.95. After completing the necessary formalities of investigation, challan against the accused was presented in the Court."

Learned counsel for the petitioner has submitted that the accident in question had taken place on 3.8.1995. Petitioner was innocent and has been falsely involved in this case. No reliance could be placed on the testimony of the eye witness. Investigation in this case had not been properly conducted.

Learned counsel for the State, on the other hand, has submitted that the petitioner was driving the truck in question in a rash and negligent manner and had thereby caused the death of Balwinder Singh.

Prosecution, in order to prove its case, examined complainant Jaswant Singh (PW3) and Basant Singh eye witness as PW2. Both the said witnesses have deposed with regard to the manner of accident as per the prosecution story. The said witnesses were cross-examined at length but their statements with regard to the manner of accident could not be shaken. The said witnesses had no enmity against the petitioner to involve him falsely in this case and shield the real culprit.

PW6 Dr. Deepak Walia had conducted the post-mortem

examination on the dead body of the deceased Balwinder Singh on 3.8.1995.

PW8 ASI Jasdev Singh investigated the case. As per him, he inspected the place of occurrence and prepared the site plan. He took into possession truck No.PB-11C-9959 and Scooter No.PB-11B-3427 from the spot vide recovery memo No. Exhibit PW8/D. He also got the vehicles mechanically tested.

Thus, the prosecution had been successful in proving its case. The trial Court, after appreciating the evidence on record rightly convicted and sentenced the petitioner under Section 304-A IPC and the learned appellate Court rightly upheld the same after going through the evidence on record. No ground for interference is made out.

Dismissed.

(Sabina)
Judge

May 11, 2009

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